IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 216 OF 2006

The State of Maharashtra ...Appellant
V/s.
Jagannath Vishnupant Patil ...Respondent

Mrs.M.M. Deshmukh, APP for the State.
None for the Respondent.

CORAM : V.M. KANADE, J.

DATED : OCTOBER 30, 2007

P.C. :-

. Heard learned APP for the State.

2. This appeal is filed challenging the order passed by the Judicial Magistrate, First Class, Sangli, who by his judgment and order dated 9th December, 2005 was pleased to convict the respondent-accused for an offence punishable under Section 323 of the IPC and sentenced him to pay a fine of Rs.1000/- and in default, to suffer Simple Imprisonment for 3 months and also to pay Rs.500/- to the complainant from the amount recovered towards fine by way of damages.

3. The learned APP has submitted that the accused

assaulted PW 2 on his hand by the backside handle of the axe as a result of which he suffered a fracture injury on his hand. She submitted that therefore, the injury was grievous in nature and the trial Court ought to have sentenced him to suffer rigorous imprisonment over and above increasing the fine amount.

4. In my view, the submission made by the learned APP for the State cannot be accepted. The trial Court has considered this aspect and has observed that there was no intention on the part of the accused to cause grievous hurt since he had assaulted PW2 by the backside handle of the axe. Further, he has observed that the offence, in question, is the first offence committed by the accused. On these two counts, the trial court held that it was not proper to sentence the accused to undergo rigorous imprisonment. I do not see any infirmity in the said reasoning. No case is made out for enhancement of sentence.

5. Leave, accordingly, is refused.

(V.M. KANADE, J.)